

REMARKS

Reconsideration and allowance of the above-reference application are respectfully requested. New claims 75 and 76 are added, and claims 1-76 are pending in the application.

Claims 1, 3, 6, 7, 9, 12, 17, 21, 24, 25, 27, 30, 35-37, 41, 43, 45, 48, 49, 51, 54, 59, 61, 64, 65, 67, 70 stand rejected under 35 USC §112, second paragraph. This rejection is respectfully traversed. Recitation of industry standards such as "SMPP", "IMAP", and "LDAP" in the claims has been deemed acceptable by the USPTO, as indicated by the attached Exhibits A and B which are printouts from the USPTO website listing numerous issued patents reciting "IMAP protocol" and "LDAP protocol" within their claims. U.S. Patent No. 6,640,097 (cited in the accompanying Information Disclosure Statement) claims SMPP.

Moreover, the subject claims do not claim the industry standards SMPP, IMAP and LDAP per se, but rather specify operations according to those industry standard. One having ordinary skill in the art would appreciate that the industry standards specify a logical sequence of events that are to occur in order to reach a certain result. Further, one skilled in the art would appreciate that the reference to the industry standards in the specification and claims refers to the industry standards as of the December 20, 2000 filing date of the application. The attached Information Disclosure Statement includes copies of standards related to SMPP (SMPP Specification v3.4), IMAP (RFC 2060), and LDAP (RFCs 2251-2256, 2829, 2830) that were in effect as of the filing date of the subject application.

Finally, one skilled in the art would appreciate that evolving standards tend to accomodate prior deployments according to prior versions, and as such tend to be "backwards-

compatible”.

Hence, one skilled in the art would recognize that the claims should be interpreted as performing operations or functions consistent with the industry standards in effect as of the filing date of the application. Any subsequent changes in the standard are not relevant, since (1) they are not related to the claimed function; (2) they are consistent with the industry standard in effect as of the filing date; or (3) they are not within the scope of the invention to the extent that the subsequent changes are inconsistent or supersede the industry standard in effect as of the filing date of the application.

For these and other reasons, the §112, second paragraph rejection should be withdrawn.

Claims 1, 7, 9, 14, 35, 40-43, 49, 51, 56, 59, 65, 67, and 72 stand rejected under 35 USC §102(e) in view of U.S. Patent No. 6,625,460 to Patil. This rejection is respectfully traversed.

Each of the independent claims 1, 35, 43, and 59 specify an arrangement in a server that receives an SMS message according to SMPP protocol.

Moreover, each of the independent claims 1, 35, 43, and 59 specify accessing a subscriber directory, according to an open network protocol, for subscriber attribute information based on the received SMS message. At least one common format message that includes the SMS message is generated based on the subscriber attribute information (having been accessed from the subscriber directory according to the open network protocol), and the common format message is supplied to a selected destination according to a selected access protocol based on the subscriber attribute information.

Hence, the server accesses the subscriber directory according to an open network protocol, and outputs the common format message to a selected destination using a selected

access protocol based on the subscriber attribute information. Hence, destination subscribers can receive SMS messages via non-SMS devices, without any need for the SMS message sender to specify the access protocol preferred by the destination subscriber.

These and other features are neither disclosed nor suggested in the applied prior art.

Patil provides no disclosure whatsoever of accessing a subscriber directory according to an open network protocol for subscriber attribute information, let alone supplying the common format message to a selected destination according to a selected access protocol based on the subscriber attribute information. Rather, Patil requires the sending party (i.e., the user operating the user terminal 10 to send an SMS message) to manually input a distribution list locally within the user terminal 10 (col. 4, lines 27-31 and 37-51; col. 6, lines 8-36). The user terminal 10 also can store and retrieve the distribution list into and from the server 40 (see col. 5, lines 61-65, col. 6, lines 48-54; col. 7, lines 27-52).

However in all instances, the server 40 passively receives the distribution list and stores the distribution internally (col. 7, lines 47-52; col. 9, lines 23-36). Figures 3 and 7 explicitly show that the user lists are internal to the message server 40. There is no disclosure or suggestion for accessing a subscriber directory according to an open network protocol, as claimed.

Further, the description of TCP/IP at col. 7, lines 5-17 is directed to communications between the SMSC 36 and the message server 40 via link 50, and the link 51 is for retrieval of content from content providers 60 or outputting messages to the addressees 70. There is no disclosure or suggestion, however, to use TCP/IP for accessing a subscriber directory, as asserted in the Official Action.

Hence, Patil fails to disclose or suggest for accessing a subscriber directory according to

an open network protocol.

Patil also fails to disclose or suggest generating, based on the subscriber attribute information, at least one common format message that includes the SMS message. Rather, Patil discloses that a received message is parsed and that a new message is generated:

the message server 40 parses the message to identify the type of message to be sent (Block 5B), and the distribution list for the message. In the case where the incoming message specifies that text composed by the user is to be sent (Block 5C), the message server 40 further parses the message to identify the user text and the distribution list (Block 5D). The message server 40 then assembles the outgoing message (Block 5E) and sends it the addressees on the distribution list (e.g. FRIENDS) (Block 5F).

(Col. 7, lines 56-64).

There is no disclosure or suggestion of a common format message that includes the SMS message, as claimed. In fact, the rejection of claim 17 (see page 10 of Office Action) admits that Patil does not disclose or suggest enclosing the SMS message into a common format message, or supplying the common format message to at least one selected destination based on the subscriber attribute information.

Hence, the §102 rejection of independent claims 1, 35, 43, and 59 should be withdrawn because the rejection fails to demonstrate that Patil discloses each and every element of the claim. See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference which are vague or based on conjecture." Studiengesellschaft Kohle mbH v. Dart Industries, Inc., 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), aff'd., 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

For these and other reasons, the §102 rejection of 1, 7, 9, 14, 35, 40-43, 49, 51, 56, 59, 65, 67, and 72 should be withdrawn.

Claims 2-5, 44-47 and 60-63 stand rejected under §103 in view of Patil and U.S. Patent No. 5,802,314 to Tullis et al. This rejection is respectfully traversed.

Tullis et al. is directed to office equipment configured for processing multimedia messages (e.g., image, audio, text, etc. mixed in a single message) (col. 1, lines 20-48), and is not within the field of the inventors' endeavor, namely providing a unified messaging system configured for supplying messages to a subscriber, independent of message format; further, Tullis et al. is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing SMS messages to non-SMS device destinations. Tullis et al. provides no disclosure or suggestion of storing the common format message in a subscriber message store in a messaging folder selected based on the subscriber attribute information retrieved from a subscriber directory according to an open network protocol, and as such is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

Further, the hypothetical combination would neither disclose nor suggest storing the common format message at a selected location based on the subscriber attribute information retrieved from the subscriber directory according to the open network protocol, as claimed.

For these and other reasons, the §103 rejection of dependent claims 2-5, 44-47, and 60-63 should be withdrawn.

Claims 6, 36, 38, 48, and 64 stand rejected under §103 in view of Patil, Tullis, and U.S. Patent No. 6,625,274 to Hoffpauir. It is believed these dependent claims are allowable in view of the foregoing.

Claims 8, 39, 50, and 66 stand rejected under §103 in view of Patil and U.S. Patent No. 6,185,288 to Wong. This rejection is respectfully traversed.

Wong is directed to call setup procedures (i.e., signaling) during initiating of a calls such as voice calls, fax calls, video calls, conference calls, etc. (col. 1, lines 5-46), and is not within the field of the inventors' endeavor, namely providing a unified messaging system configured for supplying messages to a subscriber, independent of message format; further, Wong is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing SMS messages to non-SMS device destinations. Wong provides no disclosure or suggestion of enclosing an SMS message into the claimed common format message, but rather discloses sending a call setup message as a MIME encoded e-mail message between a calling agent and a called agent (as opposed to the claimed destination). Hence, Wong is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

Hence, it is believed these dependent claims 8, 39, 50, and 66 are allowable in view of the foregoing.

Claims 15, 16, 57, 58, 73, and 74 stand rejected under §103 in view of Patil and Wong. It is believed these dependent claims are allowable in view of the foregoing.

Claims 17-19, 25,27, and 32-34 stand rejected under §103 in view of Patil, U.S. Patent No. 6,108,559 to Astrom et al., and Wong. This rejection is respectfully traversed.

As admitted in the rejection, Patil does not disclose: (1) forwarding a copy of a SMS message to a unified messaging server, (2) enclosing the SMS message into a common format message, or (3) supplying the common format message to at least one selected destination based on the subscriber attribute information, as claimed.

Wong is directed to call setup procedures (i.e., signaling) during initiating of a calls such as voice calls, fax calls, video calls, conference calls, etc. (col. 1, lines 5-46), and is not within the field of the inventors' endeavor, namely providing a unified messaging system configured for supplying messages to a subscriber, independent of message format; further, Wong is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing SMS messages to non-SMS device destinations. Wong provides no disclosure or suggestion of enclosing an SMS message into the claimed common format message, but rather discloses sending a call setup message as a MIME encoded e-mail message between a calling agent and a called agent (as opposed to the claimed destination). Hence, Wong is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

Moreover, the hypothetical combination neither discloses nor suggests enclosing the SMS message into a common format message, as claimed, and fails to address the problems addressed by the inventors. An evaluation of obviousness must be undertaken from the perspective of one of ordinary skill in the art addressing the same problems addressed by the applicant in arriving at the claimed invention. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, 23 USPQ 416, 420 (Fed. Cir. 1986), cert. denied, 484 US 823 (1987). Thus, the claimed structures and methods cannot be divorced from the problems addressed by the inventor and the benefits resulting from the claimed invention. In re Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

For these and other reasons, the §103 rejection of independent claim 17 should be withdrawn.

Claims 20-23 stand rejected under §103 in view of Patil, Astrom, Wong, and Tullis. This rejection is respectfully traversed. The above comments of the references are incorporated herein

by reference.

As described above, Wong is non-analogous art and Tullis is non-analogous art (directed to Office Equipment). The Official Action fails to identify how the hypothetical combination of non-analogous references could result in one skilled in the art would have been motivated to obtain the claimed invention. "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." In re Fritch, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). "It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992).

It is respectfully submitted that the hypothetical combination does not address the problems addressed by the inventors, let alone provide the features and benefits arising from the claimed invention. Cf. In re Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989). Hence, the §103 rejection of claims 20-23 should be withdrawn.

Claim 24 is rejected under §103 in view of Patil, Astrom, Wong, Tullis, and Hoffpauir. It is believed this claim is allowable in view of the foregoing.

The indication of allowable subject matter in claims 10-13, 28-31, 37, 52-55, and 68-71 is acknowledged. It is believed these claims are allowable in view of the foregoing.

In view of the above, it is believed this application is and condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R.

1.136. Please charge any shortage in fees due in connection with the filing of this paper,

Amendment filed April 16, 2004

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including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-1130, under Order No. 95-455, and please credit any excess fees to such deposit account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L R Turkevich', with a stylized flourish at the end.

Leon R. Turkevich
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Date: April 16, 2004

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ACLM/"imap protocol": 4 patents.

Hits 1 through 4 out of 4

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ACLM/"imap protocol"
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PAT.
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Title

- 1 [6,671,355](#) **T** [Arrangement for common-format notification delivery messages based on notification device type in an IP-based notification architecture](#)
- 2 [6,665,378](#) **T** [IP-based notification architecture for unified messaging](#)
- 3 [6,507,817](#) **T** [Voice IP approval system using voice-enabled web based application server](#)
- 4 [6,167,402](#) **T** [High performance message store](#)

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ACLM/"ldap protocol": 9 patents.

Hits 1 through 9 out of 9

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Refine Search

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ACLM/"ldap protocol"
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PAT.
NO.

Title

- 1 6,671,355 **T** Arrangement for common-format notification delivery messages based on notification device type in an IP-based notification architecture
- 2 6,665,378 **T** IP-based notification architecture for unified messaging
- 3 6,553,368 **T** Network directory access mechanism
- 4 6,507,817 **T** Voice IP approval system using voice-enabled web based application server
- 5 6,498,988 **T** Method and apparatus for centralized processing of oilfield or waterfield engineering data for design and analysis from distributed locations
- 6 6,430,176 **T** Multimedia channel management through PSTN signaling
- 7 6,154,743 **T** Technique for accessing heterogeneous directory services in an APPN environment
- 8 6,052,681 **T** X.500 system and methods
- 9 6,014,711 **T** Apparatus and method for providing electronic mail relay translation services

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Exhibit B to Amendment Filed April 16, 2004
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